

The Advisory Commission On Special Education Annual Report 1996-97

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Acknowledgments

The Advisory Commission on Special Education wishes to acknowledge the contributions of those who enhanced the outcomes of the Commission's work by sharing their time, expertise and wise counsel.

- Honorable Susan Davis - Member of the California Assembly and Commission Member
- Honorable Leroy Greene - Member of the California Senate and Commission Member
- Ms. Delaine Eastin - State Superintendent of Public Instruction
- Mrs. Kathryn Dronenburg - State Board of Education Member and Liaison to the Commission
- Mr. Gabe Cortina - Deputy Superintendent, Specialized Programs Branch, California Department of Education
- Mr. Leo Sandoval - Assistant Superintendent and Director, Special Education Division, California Department of Education and Executive Secretary to the Commission
- Dr. Ron Kadish - Assistant Superintendent and Director, State Special Schools and Services Division, California Department of Education
- Dr. Allan Simmons - Administrator, California Department of Education, Special Education Division and Liaison to the Commission
- Ms. Caitlan O'Halloran - Legislative Aide
- Mr. Paul Hinkle - Consultant, California Department of Education, Special Education Division
- Ms. Elda Fernandez - Retiring Student Member
- Ms. Dolores Dena - Secretary to the Advisory Commission on Special Education
- And for her years of service, special thanks to:
Ms. Valerie Holland - Former Secretary to the Advisory Commission on Special Education
- Further, the Commission wishes to thank all those members of the school community - teachers; classified staff; parents; nurses; psychologists; consultants; district, county office, and special education local plan area (SELPA) administrators; students with disabilities; and faculty of postsecondary

institutions - who contributed to the children of California through their attendance, testimony and written communication to the Commission.

Executive Summary

The Advisory Commission on Special Education is mandated by both State and federal law. It is required to study, assist and provide recommendations at least annually to the Governor, the Legislature, the State Board of Education and the State Superintendent of Public Instruction about issues related to the education and unmet needs of individuals with disabilities. The 1996-97 work year began with a meeting of the Commission's Executive Committee and State Superintendent of Public Instruction Delaine Eastin to review and discuss areas of focus relative to the unmet needs of students with disabilities in California.

The Commission's work plan included monthly meetings, public hearings and forums in both northern and southern California, and testimony by Commissioners to the California Legislature and the State Board of Education. Commissioners interacted with members of the State Legislature, the United States Department of Education, Office of Special Education Programs, and the U.S. Congress.

In 1996-97 the Commission reinstated student membership with the appointments of two students with disabilities who participated in all Commission activities and provided meaningful insight on all business matters.

The following issues were reviewed by the Commission and are detailed further in the Committee Reports section of this document:

- **Increase in Federal Funds:** The Commission advised Gov. Pete Wilson to allocate approximately \$78 million in new federal funds to be used for fiscal and programmatic reform.
- **Funding Reform:** The Commission worked with the Assembly member to the Commission, Susan Davis, in the development of Assembly Bill 602 to provide a new system of funding for special education that includes both fiscal and program accountability measures.
- **Individuals with Disabilities Education Act (IDEA) Reauthorization:** The Commission communicated directly with congressional committee members and U.S. Department of Education officials on recommended changes in IDEA.
- **Class Size Reduction:** The Commission provided written and verbal communication to the State Board of Education and the State Superintendent of Public Instruction on the impact of the class size reduction program on the provision of special education programs and services for students with disabilities in California.
- **Resource Specialist Caseload Waivers:** At the request of the State Board of Education, the Commission held public hearings and made recommendations relative to the complex issue surrounding requests to waive caseload requirements for resource specialists in California.

- Sunset Review Report: The Commission held public hearings and monitored the development of the Sunset Review Report developed by the California Department of Education, Special Education Division.
- State Plan: The Commission reviewed and monitored the development and implementation of the State Plan for Special Education relative to compliance with federal law.
- Federal Corrective Action Plan: The Commission met with compliance monitors from the U.S. Department of Education along with staff from the California Department of Education on the development and implementation of the corrective action plan to bring California into compliance with federal law.
- Service Delivery System: The Commission received presentations and held public discussion on the definition of the core curriculum and proper accountability relative to student performance.
- Certificate of Accomplishment for Transition Students: The Commission proposed legislation language to provide for the recognition of students with disabilities who complete their course of study but do not achieve a high school diploma.
- In addition, Commissioners served as liaisons and provided recommendations to various committees, task forces, work groups or focus groups. These are also highlighted in detail in the Liaison Reports section of this document
- School-to-Career Task Force: The Commission received presentations and provided written and verbal input to the California Department of Education supporting inclusion of students with disabilities in all School-to-Career projects throughout California.

The Commission recommended continued representation by a Commissioner on the Governor's School-to-Career Advisory Council.

- Regionalization Task Force: The Commission appointed a Commissioner to the Regionalization Task Force and recommended that the California Department of Education accept the "Recommendations for Necessary Changes in the Service Delivery Model" from A Report on the Impact and Effectiveness of Regionalization.
- Class Size Reduction: The Commission recommended an evaluation of the current class size reduction program.
- Mental Health Services Work Group: The Commission provided a liaison to this work group, established to develop regulations for the implementation of Assembly Bill 2726. These regulations specify interagency responsibilities of state and local agencies for providing mental health services to individuals with disabilities.
- Cultural Diversity Focus Group: Among the recommendations from this Focus Group were that the California Department of Education examine data to determine if a disproportionality exists based on race and that a strategic plan that includes monitoring placements of ethnic, cultural and language diverse students in special education be developed.

Commission Charge & Membership

The Commission shall study and provide assistance and advice to the State Board of Education, the State Superintendent of Public Instruction, the Legislature and the Governor in new or continuing areas of research, program development and evaluation in special education.

The Commission shall report to the State Board of Education, the State Superintendent of Public Instruction, the Legislature and the Governor not less than once a year on the following:

- Activities necessary to be undertaken regarding special education for individuals with exceptional needs as enumerated in Education Code Section 56100.
- The priorities and procedures utilized in distributing federal and state funds.
- The unmet educational needs of individuals with exceptional needs within the state.
- Recommendations related to providing better educational services to individuals with exceptional needs including, but not limited to, developing, reviewing and revising the definition of "appropriate" as used in the phrase "free and appropriate public education" in Public Law 94142.

Composition

Seventeen members:

- 1 member of the Assembly
- 1 member of the Senate
- 3 public members appointed by the Speaker of the Assembly
- 3 public members appointed by the Senate Committee on Rules
- 4 public members appointed by the Governor
- 5 public members appointed by the State Board of Education upon recommendation of the State Superintendent of Public Instruction or the members of the State Board of Education.

Terms

- The members of the Legislature appointed to the Commission shall serve at the pleasure of the appointing power.
- Each public member shall serve a fouryear term.
- Terms of public members expire December 31.

Amount of Time Required of Members

The Commission holds six meetings and additional ad hoc task force meetings as needed. Committee meetings are generally set within the framework of regular meetings. In addition there is sometimes a need for one or two days a month to prepare for Commission meetings or to attend State Board of Education meetings and special conferences when authorized by the Commission.

Compensation

Members of the Commission serve without compensation except that they are reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Statutory Authority

Individuals with Disabilities Education Act (IDEA) [20 U.S.C. Sec. 1412 (a)(21)].
California Education Code Section 33590.

- Mr. Tim McNulty, Chair - State Board, 9/8/95-12/31/99
- Dr. Terence Prechter, Vice-Chair - State Board, 1/1/92-12/31/99
- Dr. Loeb Aronin - State Board, 10/10/96-12/31/97
- Ms. Natalye Black - Senate, 2/2/96-12/31/99
- Mr. Louis Cassani - Assembly, 11/27/96-12/31/99
- Dr. Philip Chinn - State Board, 10/10/96-12/31/97
- Mrs. Janice Emerzian - Governor, 7/6/90-12/31/99
- Mr. David Gross - State Board, 1/1/96-12/31/99
- Mr. Larry Komar - Governor, 9/19/96-12/31/99
- Dr. Arlene Krouzian - Governor, 1/26/93-12/31/97
- Ms. Veronica Lomeli - Assembly, 11/27/96-12/31/99
- Mrs. Susan Lordi - Senate, 1/26/93-12/31/97
- Ms. Kendra Rose - Senate, 2/20/91-12/31/99
- Mr. Donald Sanchez - Governor, 9/19/96-12/31/97
- Mr. Lawrence Siegel - Assembly, 1/19/94-12/31/97
- Ms. Elda Fernandez - Student Member, 1996-97
- Mr. Ben Guyton - Student Member, 1996-98
- Mr. Leo D. Sandoval - Executive Secretary
- Legislative Members
 - Senator Leroy Greene
 - Assembly Member Susan Davis

1996-97 Committee Reports

Program/Policy Committee

Chairpersons:

Natalye Black

Susan Lordi

This committee met as a Committee of the Whole.

During the past year, several major events in California education were occurring simultaneously:

- the development of a new service delivery system for special education;
- the development of content and performance standards by the Standards Commission;
- required inclusion of all students in statewide assessment; and

- the continued movement toward more inclusive education.

Recognizing the importance of these events, the Program/Policy Committee chose to focus, in the broadest sense, on the core curriculum as an umbrella theme.

These initiatives clearly underscored the absolute necessity of a coalition and collaborative efforts between the general and special education communities as equal partners in educating all students. No longer can each function in isolation or to the exclusion of the other. Programs and policies that are developed need general and special education at the table from the outset.

To that end, all of the issues that were raised and considered by the Advisory Commission on Special Education during 1996-97 were viewed within the context and scope of the entire educational community.

The Commission also has remained concerned about the duplication of and gaps between services across State agencies that provide services to children and adults with disabilities. Continuing from the 1994-95 workplan of the Commission, the Program/Policy Committee monitored issues regarding integrated services, defined as the utilization of community resources in a "seamless" system for children and families.

The Program/Policy Committee addressed the following issues in its 1996-97 Workplan:

- Service Delivery
- Corrective Action Plan
- Differential Standards and High School Graduation
- Least Restrictive Environment (LRE)
- Longitudinal Data Collection
- Medications Task Force
- Medicaid Billing

The Program/Policy Committee addressed several other areas of need that occurred during the year:

- Resource Specialist Caseload Waivers
- Program Accountability Component of the New Funding System
- Regionalization of Programs and Services for Students with Low Incidence Disabilities
- Nonpublic School/Agencies (NPS/A) Regulations
- School-to-Career Initiative

Service Delivery

In California, the national reform agenda supports our own movement to improve education. The state's economic and demographic trends coupled with low achievement scores in reading and math are compelling schools to evaluate their

program and make appropriate changes. Change in special education must take place within the scope and context of education as a whole.

The proposed service delivery system was developed to define quality in all the aspects of teaching and learning for students receiving special education services. The document also describes expectations for a process for developing service delivery at the local level; as well as expectations for district, special education local plan area (SELPA) and regional support. It is a results-based approach to instructional improvement for California's students with disabilities. It is coordinated with the Superintendent's Challenge School District Initiative Program, schoolwide reform under Improving America's Schools Act and other restructuring efforts.

The design of a new service delivery system was needed based on the demand for new, flexible and innovative ways to provide services and the growing gap between the legal constraints and practice as evidenced by the numbers of program waivers requested by SELPAs to deviate from current laws and regulations. The goals of the system are to provide for:

- a structure for flexibility and local control
- accountability measures for quality instruction and services
- integration of special and general education
- compliance with federal law with a basis for changes in state law as necessary

The Commission continued to monitor and review the results of all field hearings regarding the proposed new system as well as the California Department of Education's (CDE) progress on writing the proposal. The Commission participated with the CDE in developing the final recommendations until the project was put on hold.

Issues

1. There should not be an artificial separation of compliance from quality.
2. Measures, language and descriptions of program quality and compliance are inconsistent between general education and special education, e.g., Program Quality Review, Coordinated Compliance Review and Service Delivery System Indicators.
3. The need exists to revisit the proposed service delivery system that includes all program and placement options.

Recommendations

1. A representative from the Commission should participate in the work group development of the new system.
2. The language used within the proposal of the new service delivery system should be clear and user-friendly to the entire educational community.
3. Accountability measures should be consistent and integrated across all educational programs.

4. General education and special education need to be involved concurrently in the development of all programs and policies affecting all of California's students.
5. The Commission and the appointing bodies should support the adoption of national, state and local integrated service system recommendations in the delivery of health, education and human services to children and families in the form of legislative or policy positions.
6. The Commission and the appointing bodies should support the development and promulgation of a systemic approach to the delivery of integrated services to all children consistent with the principles and guidelines of general education best practices such as the Challenge Initiative.

Corrective Action Plan

The Commission monitored the implementation of the Corrective Action Plan developed by the CDE in response to the 1995 federal monitoring of California special education.

Issue

1. The CDE and identified school districts must immediately come into compliance with federal law (IDEA - Individuals with Disabilities Education Act).

Recommendations

1. Visionary, creative and resourceful approaches to the provision of special education services must not be dropped for "lock step procedures" that may not be of quality.
2. There must be strategic, long-term planning and establishment of quality assurance as school districts comply with base regulations.

Differential Standards and High School Graduation

The Commission is concerned that confusion and inconsistencies exist among California school districts regarding the development and application of Differential Proficiency Standards for students with severe disabilities and the awarding of a high school diploma.

Issues

1. There is no clarity in current California Education Code regarding how a student with severe disabilities can be recognized for his/her graduation from high school.
2. There exists an inconsistency in current statute regarding the determination of differential proficiency standards required for graduation and confusion regarding accommodations of demonstrating the required level of competency and alternate modes to meet these standards.

Recommendations

1. Through an in-depth study, the CDE should identify and clarify inconsistencies and conflicts in the Education Code regarding differential proficiency standards for students receiving special education services who require them to demonstrate

proficiency on local board-adopted general standards of proficiency that apply to all students.

2. Clarifying legislation or a legal advisory should be developed based on the results of the study.

3. The CDE should develop legislation or regulations directing the issuance of a Certificate of Achievement or Completion to those students who complete their alternate educational program but who do not earn a diploma.

Least Restrictive Environment

The Commission supports the concept of a full continuum of program and placement options for students. The Commission supported the passage of Senate Bill (SB) 210 that articulated the general education classroom as a placement option for students receiving special education services. This year the Commission reviewed the proposed revision of the 1986 LRE policy statement upon the request of the State Board of Education.

Issues

1. With the rapid movement in the past decade toward inclusive education, there exists the concern that students with disabilities not be placed haphazardly in general education classrooms without the necessary supports and an individualized determination of whether that placement is truly appropriate.

2. There exists the fear within some of the California special education community that there is a potential decategorization of students with disabilities that will lead to a lack of appropriate assessment and services.

3. The 1986 LRE Policy Statement is somewhat outdated in its context, but applicable in its guidance.

Recommendations

1. All policies issued by the CDE should be reviewed periodically for currency and accuracy within the entire scope of the educational community.

2. The CDE should continue to promote and disseminate applicable program and legal advisories.

Longitudinal Data Collection

The Commission proposed to the State Board of Education that the CDE collect follow-up data on students exiting California public schools three to five years after they graduate or leave. The State Board approved the proposal June 1995. A feasibility study was initiated by the Special Education Division, however, the study has not been undertaken at this time.

Issue

1. The feasibility study was subsumed into CDE efforts.

Recommendations

1. The State Board of Education should follow through on their June 1995 decision to have a study conducted on the feasibility of conducting a randomized,

longitudinal study one, two or three years after graduation or exiting high school of all students, including those with disabilities.

2. All CDE assessment and data collection efforts should include students with disabilities.

Medications Task Force

The Commission approved language for a program advisory from the CDE clarifying the responsibilities and process for school personnel to administer medication to students with acute or chronic illnesses. This language is currently moving through the CDE's legal review.

Issues

1. Some local educational agencies' nonpublic schools refuse to administer prescribed medications to students at school.
2. Some local educational agencies allow untrained and unsupervised personnel to administer medications, sometimes even students.
3. Some local educational agencies do not allow students to carry on their person or to self-administer prescribed emergency medications, such as asthma inhalers, insulin, anti-venom kits and anti-convulsives.

Recommendation

1. The CDE should disseminate to every county and district school superintendent the advisory on administering medications to students.

Medicaid Billing

Although school districts became eligible in 1989 to bill for Medi-Cal reimbursable services under the Local Educational Agency (LEA) Medi-Cal Billing Option, participation was very low. The Commission has worked with the State LEA Health and Human Services Advisory Commission to gain a broader participation of California school districts in this billing option.

Issues

1. School district personnel have a limited awareness of this billing option.
2. Targeted case management services are currently not available to all Medi-Cal-eligible children.
3. As of June 1997, \$24,328,004 was disbursed by LEA Medi-Cal to school districts in California.

Recommendations

1. A member of the Commission should participate on the State LEA Health and Human Services Advisory Commission. (1995-96 recommendation; accomplished)
2. Support Assembly Bill (AB) 1294 (Aguiar) to extend targeted case management to all Medi-Cal-eligible children.
3. The CDE should participate with the Department of Health Services in training district personnel on the new LEA Medi-Cal Billing Option regulations that extend eligibility to new providers.

Additional Areas Reviewed

Resource Specialist Caseload Waivers

The State Board of Education requested that the Commission make recommendations regarding the possible revision of the current guidelines used by the State Board in considering requests by school districts to waive the maximum caseload for a resource specialist. Four statewide hearings were held, and all public input gathered and analyzed. The recommendations were approved at the May 1997 State Board meeting.

Issues

1. Increasing numbers of school districts are requesting waivers of Education Code to exceed the caseload limit of 28 students for a resource specialist.
2. With the implementation of class size reduction in grades kindergarten through 3, some resource specialist programs (RSP) have far more than 20 primary students.
3. The State Board of Education is concerned that the current guidelines for granting caseload waiver requests may need to be revised.

Recommendations

1. K-3 RSP waiver requests should not be separated from waiver requests in other grades.
2. The State Board of Education should tighten and strengthen the documentation of the need and extraordinary circumstances when RSP caseloads exceed 28 students.
3. When no unfunded personnel units exist in a SELPA, any request for RSP caseload waiver should be denied.
4. The resource specialist should participate in waiver hearings if there is a disagreement with the request.
5. Convene a Task Force composed of all the essential stakeholders to study the issue and make recommendations to the Commission and the State Board of Education.

Program Accountability Component of the New Funding System

The Program/Policy Committee worked with the Legislative/Finance Committee in the development of AB 602 suggested language regarding program accountability measures. The funding model introduced last year, but not enacted into legislation, did not contain a viable program accountability component that was thought to be one major weakness, which ultimately led to its defeat. The Commission provided the leadership to initiate a new funding system and invited all interested stakeholders to provide input and to form a coalition to assure passage of this urgent bill, AB 602, into legislation. SELPA administrators and consultants from the Special Education Division provided expertise and guidance to the Commission regarding the program accountability component.

Issue

1. A new system of funding for special education programs and services should require measures of program accountability in addition to fiscal accountability.

Recommendations

1. There should be consistency with current language in Education Code.
2. There should be consistency with the language in the IDEA.
3. There should be consistency with the development of standards, outcomes and statewide assessment in general education.
4. There should be alternative content standards, performance indicators and assessments for those students for whom the general education assessments are not appropriate, such as those with severe or profound disabilities.
5. Program improvement efforts need to be tied to program accountability measures.

Regionalization of Programs and Services for Students with Low Incidence Disabilities

ACR 55 mandated a study of the impact and effectiveness of regionalization for students with low incidence disabilities.

Issue

1. Due to the highly specialized needs of students with low incidence disabilities, it is often a challenge for school districts to provide an adequate range of program options and services for these students.

Recommendation

1. The CDE accept and support the "Recommendations for Necessary Changes in the Service Delivery Model" from A Report on the Impact and Effectiveness of Regionalization.

Nonpublic Schools/Agencies Regulations

SB 989 required that emergency regulations for NPS/A personnel standards be in place by Aug. 1, 1997.

Issues

1. There should be State regulations to ensure a reasonable standard of professional quality service to students provided in or by NPS/A comparable to that provided in the public school system.
2. The standards set for NPS/A personnel must be high but not so high as to deny access to or eliminate needed service providers.

Recommendation

1. The State Board of Education should approve the regulations developed by the CDE.

School-to-Career Initiative

The Commission reviewed the California School-to-Career initiative and affiliated projects and recommended that the Governor's Youth Leadership Forum for students with disabilities, held annually in Sacramento, be expanded to include an identical forum meeting in Southern California. Additionally, the Commission recommended continued representation of a Commissioner on the Governor's School-to-Career Advisory Council to ensure the inclusion of students with disabilities in all School-to-Career projects.

Legislative/Finance Committee

Chairpersons:

Dave Gross

Kendra Rose

This committee met as a Committee of the Whole with all members of the Commission participating.

The Legislative/Finance Committee of the Advisory Commission on Special Education dealt with several main issues during the 1996-97 year. This portion of the report focuses on those general issues, federal legislation considered and state legislation with which the Committee was involved.

The Committee addressed the following issues in its 1996-97 workplan:

- Reauthorization of the Individuals with Disabilities Education Act (IDEA)
- Class Size Reduction
- Sunset Review Report
- Various State Legislation
- Funding/Accountability

Federal Legislation

Reauthorization of the Individuals with Disabilities Education Act

The reauthorization of the IDEA was the major focus of federal legislation that the Committee undertook this year. At the Committee's first meeting, Special Education Division staff apprised members as to why the reauthorization efforts failed in the previous (104th) Congress. There was communication between Commissioners and Washington, DC legislative staff members as to the future of reauthorization.

On the first day that the 105th Congress convened, HR 5, the House of Representatives bill dealing with IDEA reauthorization, was introduced. From the beginning, the Committee monitored the development of IDEA and provided input to federal legislative members and to the California Congressional Delegation.

Commission members attended and provided input at the federal public hearings that were held in California to obtain information about special education and IDEA. The Commission also sponsored a public hearing to gain consensus from various groups on a variety of topics and issues dealing with IDEA. This consensus

input was then forwarded to members of Congress. In addition, previous recommendations for IDEA that the Commission had developed were also sent to members of Congress.

The Committee continued to carefully follow the development of the IDEA reauthorization through all of its stages by means of phone calls and written correspondence with members of Congress or their staffs. A Commissioner also traveled to Washington, DC to lobby members of Congress (or their staff members) and to push forward the Commission's recommendations.

While in Washington, the Commissioner also met with the Assistant Secretary of the United States Department of Education to discuss and promote the passage of the reauthorization of IDEA. The Committee/Commission was also represented at one of the public hearings held in Washington, DC, where more discussion occurred between the Commission representative, legislative staff members and the assistant secretary. The Committee/Commission also worked closely with other California organizations (i.e., SELPA administrators, Parent-Teacher Association, California Teachers Association, California Association of Resource Specialists, etc.) to pursue the successful passage of the reauthorization of IDEA by the 105th Congress.

Motion

The Committee approved the following: That the Commission oppose, in concept, the cessation of services as proposed in HR 5 (Reauthorization of the Individuals with Disabilities Education Act) as it relates to children who have been suspended or expelled.

Senate Bill 1

The other piece of federal legislation that the Legislative Committee dealt with was Senate Bill 1. S. 1 was introduced on the first day that the 105th Congress convened in January 1997. The part of S. 1 that was of particular interest to the Commission was the part dealing with increased federal funding for special education to the 40 percent level initially discussed in Public Law (PL) 94-142 in 1975. Letters were sent to the bill's author, Sen. Judd Gregg, and to California's senators indicating the Commission's support of that portion of the bill. As of this writing, S. 1 is still moving through the legislative process.

General Issues

Class Size Reduction

Because legislation pertaining to class size reduction was enacted in July 1996 and many districts were in turmoil to implement this legislation by the opening of schools in September, the Committee was presented with a number of concerns as they relate to class size reduction and special education students.

Issues

1. The displacement of special education classrooms to make more rooms available for class size reduction (K-3 classes).
2. In some cases, no rooms were available to provide individualized education program (IEP) services to students (i.e., resource specialists had to provide services in hallways because their rooms were taken).
3. Controversy and debate existed about which special education students were to be considered in the 20:1 ratio.
4. There were concerns about being able to recommend and provide the least restrictive environment and mainstreaming opportunities due to limited physical space and restricted numbers (20:1).
5. Former special education teachers chose to teach the regular classroom because of the reduced numbers.
6. There is a need to consider special education classes (resource specialist program and special day class) in the reduced class size program.

Recommendations

1. The Superintendent of Public Instruction and the State Board of Education send an urgent communication to school districts, county offices and other organizations to provide direction and clarification on the movement of special education programs and services relative to the implementation of class size reduction. The communication should include sanctions that may be imposed if the movement of programs and services adversely affect the implementation of the IEP. This urgent communication should delineate the criteria for the inclusion of special day class students in the 20:1 calculation.
2. The State Board of Education, the Superintendent of Public Instruction and the CDE should address the impact of class size reduction on special education students. Specifically, the following concerns should be addressed:
 - the maintenance of viable and appropriate placement options
 - the movement of special education programs and services to inappropriate facilities and elimination of facilities used for some special education programs and services
 - assignment of special education personnel to general education duties in addition to their special education function
 - the interface of special day class students with the 20:1 class size regulation so as to discourage inclusion opportunities

Subsequently, a joint letter signed by the Superintendent of Public Instruction and the president of the State Board of Education regarding the State Board of Education's resolution on class size reduction was sent to all California school districts. Additionally, the State Board has set aside \$10,000 to study the effects of class size reduction on special education. The Commission is looking forward to participating in this study.

Sunset Review Report

Another general issue the Commission undertook during the 1996-97 year was the development of the Sunset Review and the result is required by law and includes a history of special education, a description of existing programs and enrollment and fiscal data. The report is required to extend the sunset date for California special education programs. Beginning with our first meeting, the Committee was given a status report by members of the Special Education Division of past Sunset Review documents. Throughout the year the Commission monitored the development of the Report through monthly updates. The Committee, through public input sessions and other means, was instrumental in obtaining information for the Report.

Issue

1. Special education programs are due to sunset in California June 30, 1998.

Recommendations

1. Develop legislation to deal with the reauthorization of special education in California. (The Committee has taken a support position on AB 58, and has sent letters to the author and various committee members to indicate that support. This new legislation would cover the special education laws until June 2003.)
2. Commissioners attend hearings to publicly show support as this bill moves through the legislative process.
3. Information from California's Federal Corrective Action Plan as well as the accountability and service delivery models should be included in the Sunset Review.

Review of Legislation

The Committee reviewed and took action on the following legislation:

- AB 58 (Escutia): Sunset legislation to extend the provisions governing special education. (Support)
- AB 107 (Ducheny): Makes appropriations for support of state government for the 1997-98 fiscal year. In addition to the continued funding for special education, this bill set aside \$76.7 million of federal funding for special education programs. These funds were to be used for equalizing special education funding rates in such a manner that will reduce the inequities and complexities of the current system and eliminate the financial incentive related to special education placements. (Support plus a letter of support to the governor and members of the Assembly Budget Committee)
- AB 205 (Machado): Authorizes a speech-language pathology assistant under specified direction and supervision. (Support)
- AB 285 (Honda): Attempts to mitigate the effects of domestic violence and sexual assaults on children by educating teachers to recognize and respond to victimized children in their classrooms. (Watch)
- AB 439 (Honda): Reduces the physical size of the Education Code by removing the intent language and leaving it in statute only. (Originally opposed until it was amended to leave the special education intent language in the Code.)

- AB 504 (Wildman): Establishes pilot low incidence regionalization programs. (Support)
- AB 602 (Davis): Reforms the special education funding system. (The Commission formally sponsored this legislation.)
- AB 1010 (Poochigian): Reforms the special education funding system. (This bill was eventually merged into AB 602.)
- AB 538 (House): A two-year bill requiring sign language interpreters to hold a special certificate. (Watch)
- AB 1261 (Sher): Extends the pilot programs of bringing nonpublic school students back to public programs at the nonpublic school level of funding. (Support)
- AB 1294 (Aguiar): Provides that certain health services to students with an individualized health support plan be provided under the Medi-Cal program. (Support)
- SB 958 (Hughes): Establishes the Behavior Analysts Certification Act that would provide for the certification of behavior analysts. (Oppose)

Funding/Accountability

It is necessary to overhaul the current special education funding model to address funding inequities and the placement options disincentives (lack of flexibility) inherent in the current model.

Issues

1. The accountability requirements of all SELPAs and LEAs must be clear and in place in any new funding system.
2. The current funding model has a disincentive to identify and serve pupils with exceptional needs or eliminate or to reduce the continuum of placement options.
3. The amounts set aside for the low incidence population has not increased on a per pupil basis since 1985-86 while the enrollment has increased.

Recommendations

1. Bring together key stakeholders to discuss and find consensus as to what should be included in a new funding system. (Two all-day public dialogue sessions were hosted by the Commission, one in December 1996 and one in January 1997.)
2. Legislation should carry language that the new funding mechanism be based on total pupil population, but that this mechanism not create or allow disincentives to serve students with disabilities.
3. The Commission should seek to augment the current \$8.5 million low incidence materials and equipment fund by \$1.5 million and the current \$1.7 million low incidence services fund by \$2 million.

Recommendations

Service Delivery

1. A representative from the Commission should participate in the work group development of the new system.

2. The language used within the proposal of the new service delivery system should be clear and user-friendly to the entire educational community.
3. Accountability measures should be consistent and integrated across all educational programs.
4. General education and special education need to be involved concurrently in the development of all programs and policies affecting all of California's students.
5. The Commission and the appointing bodies should support the adoption of national, state and local integrated service system recommendations in the delivery of health, education and human services to children and families in the form of legislative or policy positions.
6. The Commission and the appointing bodies should support the development and promulgation of a systemic approach to the delivery of integrated services to all children consistent with the principles and guidelines of general education best practices such as the Challenge Initiative.

Corrective Action Plan

1. Visionary, creative and resourceful approaches to the provision of special education services must not be dropped for "lock step procedures" that may not be of quality.
2. There must be strategic, long-term planning and establishment of quality assurance as school districts comply with base regulations.

Differential Standards and High School Graduation

1. Through an in-depth study, the CDE should identify and clarify inconsistencies and conflicts in the Education Code regarding differential proficiency standards for students receiving special education services who require them to demonstrate proficiency on local board-adopted general standards of proficiency that apply to all students.
2. Clarifying legislation or a legal advisory should be developed based on the results of the study.
3. Legislation or regulations directing the issuance of a Certificate of Achievement or Completion to those students who complete their alternate educational program but who do not earn a diploma.

Least Restrictive Environment (LRE)

1. All policies issued by the CDE should be reviewed periodically for currency and accuracy within the entire scope of the educational community.
2. The CDE should continue to promote and disseminate applicable program and legal advisories.

Longitudinal Data Collection

1. The State Board of Education should follow through on their June 1995 decision to have a study conducted on the feasibility of conducting a randomized, longitudinal study one, two or three years after graduation or exiting high school of all students, including those with disabilities.

2. All CDE assessment and data collection efforts should include students with disabilities.

Medications Task Force

1. The CDE should disseminate to every county and district school superintendent the advisory on administering medications to students.

Medicaid Billing

1. A member of the Commission should participate on the State LEA Health and Human Services Advisory Commission. (1995-96 recommendation; accomplished)
2. Support Assembly Bill (AB) 1294 (Aguiar) to extend targeted case management to all Medi-Cal-eligible children.
3. The CDE should participate with the Department of Health Services in training district personnel on the new LEA Medi-Cal Billing Option regulations that extend eligibility to new providers.

Resource Specialist Caseload Waivers

1. K-3 RSP waiver requests should not be separated from waiver requests in other grades.
2. The State Board of Education should tighten and strengthen the documentation of the need and extraordinary circumstances when RSP caseloads exceed 28 students.
3. When no unfunded personnel units exist in a SELPA, any request for RSP caseload waiver should be denied.
4. The resource specialist should participate in waiver hearings if there is a disagreement with the request.
5. Convene a Task Force composed of all the essential stakeholders to study the issue and make recommendations to the Commission and the State Board of Education.

Program Accountability

1. There should be consistency with current language in Education Code.
2. There should be consistency with the language in the IDEA.
3. There should be consistency with the development of standards, outcomes and statewide assessment in general education.
4. There should be alternative content standards, performance indicators and assessments for those students for whom the general education assessments are not appropriate, such as those with severe or profound disabilities.
5. Program improvement efforts need to be tied to program accountability measures.

Regionalization of Programs and Services for Students with Low Incidence Disabilities

1. The CDE accept and support the "Recommendations for Necessary Changes in the Service Delivery Model" from A Report on the Impact and Effectiveness of Regionalization.

Regulations for Nonpublic Schools and Agencies

1. The State Board of Education should approve the regulations developed by the CDE.

Class Size Reduction

1. The Superintendent of Public Instruction and the State Board of Education send an urgent communication to school districts, county offices and other organizations to provide direction and clarification on the movement of special education programs and services relative to the implementation of class size reduction. The communication should include sanctions that may be imposed if the movement of programs and services adversely affect the implementation of the IEP. This urgent communication should delineate the criteria for the inclusion of special day class students in the 20:1 calculation.
2. The State Board of Education, the Superintendent of Public Instruction and the CDE should address the impact of class size reduction on special education students. Specifically, the following concerns should be addressed:
 - the maintenance of viable and appropriate placement options
 - the movement of special education programs and services to inappropriate facilities and elimination of facilities used for some special education programs and services
 - assignment of special education personnel to general education duties in addition to their special education function
 - the interface of special day class students with the 20:1 class size regulation so as to discourage inclusion opportunities

Sunset Review Report

1. Develop legislation to deal with the reauthorization of California's special education laws. (The Committee has taken a support position on AB 58, and has sent letters to the author and various committee members to indicate that support. This new legislation would cover the special education laws until June 2003.)
2. Commissioners attend hearings to publicly show support as this bill moves through the legislative process.
3. Information from California's Federal Corrective Action Plan as well as the accountability and service delivery models should be included in the Sunset Review.

Funding/Accountability

1. That the Commission bring together key stakeholders to discuss and find consensus as to what should be included in a new funding system. (Two all-day public dialogue sessions were hosted by the Commission, one in December 1996 and one in January 1997.)
2. That the Commission sponsor legislation to reform the system of funding special education and that the new funding mechanism be based on total pupil population with appropriate fiscal and program accountability language.

3. The Commission should seek to augment the current \$8.5 million low incidence materials and equipment fund by \$1.5 million and the current \$1.7 million low incidence services fund by \$2 million.

Liaison Reports

Class Size Reduction Liaison:

Terence Prechter

Class size reduction was developed hurriedly for the 1996-97 school year following its introduction by Gov. Pete Wilson in July 1996. Several reports by the State Board of Education and the California Department of Education were sent to local educational agencies to focus attention on any changes involved in the implementation of class size reduction and its effects on special education. These reports include "Class Size Reduction and Individuals with Disabilities" (August 1996, California Department of Education) and the State Board of Education Resolution, "Class Size Reduction Program and Individuals with Disabilities" (October 1996).

Several concerns have been reported to the Advisory Commission on Special Education. The State Board of Education authorized monies in the amount of \$10,000 to study the effects of class size reduction on special education in participating schools. This study is being done by the Special Education Division and should be completed in July 1997. The results will be reported back to the State Board.

The Commission also recommended that, in conjunction with class size reduction, an evaluation process be put in place to monitor the progress of the program and suggest changes as necessary so that given levels of achievement can be attained by all students.

School-to-Career Task Force

Liaison: Janice Emerzian

The California School-to-Career State Plan was intended to integrate school-based and work-based learning to increase the rigor and relevance of California's educational system. To help manage the development of the plan, an interagency partnership was created among the California Department of Education, the Chancellor's Office of the California Community Colleges and the Employment Development Department representing the Governor. In late June 1994, the Governor appointed a 27-member School-to-Career Task Force with the charge to provide a School-to-Career Plan to the Governor.

The California State School-to-Career Plan was federally approved and in 1995, California also submitted a request for additional federal funds to implement School-to-Career in California. Although California did not receive an implementation grant, the State continued its process of developing a School-to-

Career transition system through 1997. Commissioner Emerzian remained an active member of this task force.

The task force concluded that a new vision based on contemporary economic and social realities is needed for School-to-Career transition. The current array of education and training programs needs to move toward a coherent system based on public-private cooperation. Young students need more and better career guidance. Technology must be integrated into the classroom and made available to "all" students at the work site. "All" students must have the opportunity to learn necessary academic and "workplace" skills required by business. "All students" means every student, including, but not limited to students with disabilities. These foundation skills should be acquired by most students by about age 16. For those with special needs, accommodations and special assistance must be provided.

The task force concluded that through local partnerships, new world-class education standards must be developed that are uniformly high and comparable to the best standards of other industrialized nations, and measure performance using reliable, objective, academic-based examinations while including "all" students. Developing a strong School-to-Career system should be the first step in a seamless system of lifelong education and employment for Californians, and should result in increased efficiency and effectiveness of California's educational system.

The task force made the following recommendations:

1. The Commission continue to appoint a Commissioner as a liaison to the new-to-be established Governor's Advisory Commission on School-to-Career to represent special populations.
2. The Commission continue to monitor and review the actions taken by the Governor's Advisory Commission on School-to-Career to insure the inclusion of students with disabilities in all School-to-Career programs.
3. The Commission receive input from School-to-Career partnerships throughout the state regarding successful practices on School-to-Career and inclusion of students with disabilities.
4. The Commission receive input from School-to-Career programs throughout the state regarding "factors that promote inclusion of students with disabilities in School-to-Career programs in California."

Regionalization Task Force

Liaison: Janice Emerzian

The purpose of the Low Incidence Disability Programs Quality Study was to determine the degree of effectiveness with which programs for students who are hearing impaired, severely orthopedically impaired, visually impaired or deaf-blind achieve the standards of quality published in each of the California State Low Incidence Program Guidelines.

Four independent studies were conducted, one for each low incidence disability area. Phase I of each study involved 30 randomly selected special education local plan areas (SELPA's), which internally reviewed their programs and the services provided to students with the specific disability of interest. Using a Self-Review Guide, individuals involved in these self-reviews ranked their perception of the SELPA's effectiveness at achieving the criteria of a quality program as defined in the Program Guidelines. One hundred percent of the participating SELPA's submitted reports of the self-reviews.

In Phase II of the study, a sub-sample of nine SELPA's was drawn from the SELPA's completing self-reviews of their programs. External review teams conducted an on-site review in these SELPA's, making judgments of the SELPA's effectiveness at achieving the published standards through interviews, observations and records review. Data collected in Phases I and II were combined for analysis.

The Low Incidence Committee discovered that

1. The combination of administrators, program specialists and service providers who are knowledgeable of a specific low incidence disability and who understand the potential unique educational needs of these students was found to be the most powerful determinant of program quality.
2. If students who are hearing impaired, severely orthopedically impaired, visually impaired or deaf-blind are to receive an education that will prepare them adequately for adult life, that education must be directed, planned and provided by a team of competent individuals who are aware of the student's educational needs and who are committed to meeting them.
3. Most SELPA's do not have the financial and personnel resources to provide these teams, nor can they realistically be expected to do so since the incidence of these population is too low, their specialized needs too great.

The Committee made the following recommendations:

1. The Commission support the findings of the Low Incidence Disability Program Quality Study.
2. The Commission recommend that the State Department of Education, Special Education Division, investigate regionalization of services to students with low incidence disabilities as a means through which needed expertise might be made available to SELPA's to support their efforts to meet the educational needs of these students.
3. The Commission continue to receive and give input from the Low Incidence Study Group.

Mental Health Services Work Group

Liaison: Loeb Aronin

The Advisory Commission on Special Education provided a liaison to the committee established to develop regulations for the implementation of Assembly Bill (AB) 2726. The Department of Mental Health and the California Department of

Education sponsored this legislation to resolve the issues that had held up the final regulations to AB 3632. Ideas, suggestions and problem areas were presented to the working committee through the Commission's liaison. These regulations specify interagency responsibilities of state and local agencies for providing mental health services to individuals with disabilities.

These new regulations are particularly important in light of the fact that the "Emergency Regulations" that were developed to implement AB 3632 were never approved as permanent regulations. These regulations apply to the State Departments of Mental Health, Health Services, Social Services and their designated local agencies, as well as the California Department of Education, school districts, county offices and special education local plan areas. The intent of these regulations is to assure conformity with the federal Individuals with Disabilities Education Act, as well as consistent procedures for referring special education students to community health programs in terms of assessment and referral procedures, transfers and interim placements, case management and financial responsibility. The new proposed regulations are being reviewed by each Department for adoption.

Cultural Diversity Focus Group

Liaison: Arlene Krouzian

The primary goal of the Cultural Diversity Focus Group is to eliminate the disproportionate representation of minorities, particularly African American males and Hispanics, in special education programs. This significant disproportionality continues and must be resolved.

The composition of the focus group included educators, psychologists, administrators, organization members, parents and California Department of Education personnel. Workgroups had specific task assignments pertaining to parent/school partnerships; assessment practices/education standards; teaching, learning and language; professional development; exemplary programs and practices; and recruitment and retention of teachers from diverse backgrounds. Some concerns presented were the disproportionate placement of African American and Hispanic students; the number of referrals; the types of interventions carried out prior to formal assessments; accessibility to the appropriate core curriculum; the lack of proficiency in the basic skills; large special education classes; the under representation of minorities in gifted and advance enrollment/placement programs; the high number of suspensions and expulsions; the high dropout rate; and the lack of adequate counseling services and other support systems for students and their families.

The focus group developed the following recommendations:

1. A Proposal for Fiscal Year 1998-99 be submitted to create a framework to prevent and eradicate the over-representation of ethnic, culturally and language diverse students in special education should be approved.

2. In accordance with the Individuals with Disabilities Education Act Amendments of 1997, the California Department of Education should collect and examine data to determine if there is significant disproportionality based on race regarding the identification of children with disabilities in certain disability categories and placement of those children in particular educational settings. Should such disproportionality be identified, policies/procedures should be reviewed and revised accordingly.
3. Action should be taken to stop the critical problem of the disproportionate representation of African American males in special education.
4. A strategic plan should be developed that includes monitoring on a continual basis of students placed in special education who are ethnic, culturally and language diverse.
5. The referral process should be monitored and should not constitute a direct route to special education.
6. The impact of large special education class sizes on student outcomes should be scrutinized.
7. Presentations should be made to the Advisory Commission on Special Education as to the steps taken to reduce the high numbers of minority students in special education.